

### **REMARKS/ARGUMENTS**

Claims 8-10 and 24-26 are pending in the application. In light of the amendments and following remarks, Applicant believes all the pending claims are now in condition for allowance.

#### **Formal Matters**

Claims 8-10 and 24-26 were rejected under 35 USC § 112, second paragraph, as allegedly being indefinite. The following will address each specific rejection.

The Office Action indicated that a phrase added to the claims in the last amendment, although having antecedent basis, was not clear English. Applicant has amended the claim as suggested by the Examiner so the rejection is overcome.

Additionally, the Office Action stated that it was not clear to what “lower hybridization” referred. As stated on page 3, lines 3-8, for example, it is the “affinity” between the probes and the targets. Thus, Applicant amended the claims to recite “lower hybridization affinity” and believes the rejection is overcome.

#### **The § 102(b) Rejection of Claims 8-10 and 24-26**

Claims 8-10 and 24-26 were rejected under 35 USC § 102(b) as allegedly being anticipated by U.S. Patent No. 5,837,832, issued November 17, 1998 to Chee et al. (hereinafter “Chee”). In light of the amendments, Applicant believes this rejection is overcome.

The Office Action cites Chee for disclosing that probes can vary at an interrogation position. For example, as recited in the Office Action, probes can be formed with either an A, C, G, or T. Applicant acknowledges that this is pioneering prior art of the subject invention.

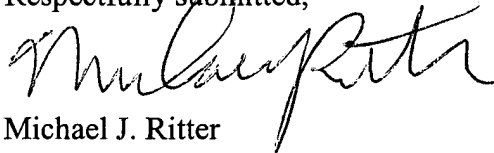
The subject invention, however, is directed to probes that are designed to have the same desired sequence, but do not due to an error in probe synthesis. As recited in the claims, these probes that should have identical sequences are designed with at least one monomer addition step, but the different monomer addition steps should add the same monomer. Thus, when there is an error in the probe synthesis, the probes will not be identical. This difference results in lower hybridization affinity between those “error” probes and the targets, which can be utilized to check the integrity of the probes.

Applicant believes that the amendments to the claims clearly distinguish the subject invention over Chee. Accordingly, it is believed the rejection is overcome and the claims are patentably distinct over all the cited references.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8693.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Ritter", written in a cursive style.

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